



Health Insurance Bulletin 2012-2
October __, 2012

Group Rating and Underwriting - Unfair Discrimination

(a) **Purpose.** This Bulletin is issued by the Commissioner of the Office of the Health Insurance Commissioner for the purpose of rectifying unlawful group rating and underwriting practices engaged in by certain health insurance companies doing business in Rhode Island. Specifically, a review of group account files has demonstrated that at times companies have discounted group rates by engaging in the following improper practices:

1. Objective, sound actuarial standards and procedures were not established for the development of group rates.
2. Group rates offered were not based on the company's established actuarial standards and procedures.
3. The application of a company's actuarial standards and procedures were not adequately documented.
4. Discounted group rates were based on marketing and business objectives, rather than based on sound actuarial principles.

These improper discounting practices can result in arbitrarily lower rates for some groups, arbitrarily higher rates for other groups, and unfair competition among carriers in violation of the Unfair Competition and Trade Practices Act, which prohibits "unfair discrimination". Rhode Island General Laws § 27-29-4(7)(iii).

(b) **Authority.** This Bulletin is issued in accordance with, and pursuant to the Commissioner's authority under Rhode Island General Laws §§ 42-14.5-2, 42-14.5(e), 42-14-4(c) and (d), and 27-29-12.

(c) **Definitions.** As used in this Bulletin:

(1) "Commissioner" means the Commissioner of the Office of the Health Insurance Commissioner.

(2) "Health insurance company" means any company of any kind doing health insurance business in this state, both domestic and foreign, including any person who offers, issues, or renews a health insurance policy, contract, or other health benefit plan in connection with covered members or policyholders residing or located in Rhode Island, including but not limited to: a health insurance company subject to Rhode Island General Laws Chapter 27-18, a hospital or medical service corporation subject to Rhode Island General Laws Chapters 19, 19.2, and 20, and health maintenance organizations subject to Rhode Island General Laws Chapter 27-41.

(d) **Group Rating and Underwriting.** The Commissioner intends to monitor group rating and underwriting practices, and to use the following regulatory standards in determining whether unfair discrimination has occurred in connection with group rating and underwriting, and in connection with group rate discounting.

(1) A health insurance company shall establish group rating and underwriting standards which are based only on rational, objective and financially sound actuarial criteria.

(2) A health insurance company may use the underwriting judgment of its professional staff in connection with a group account; however, such professional judgment must be based only on rational, objective and financially sound actuarial criteria, and must not be based on the company's business and marketing objectives.

(3) The practice of "first year discounts" may be used only if, as applied to a particular group account, it is based only on rational, objective and financially sound actuarial criteria.

(4) A health insurance company shall consistently and thoroughly apply its established group rating and underwriting standards when developing and offering group rates.

(5) A health insurance company shall establish internal procedures to adequately document the application of its group rating and underwriting standards, so that an audit or examination of group accounts will clearly demonstrate why a particular rate was offered, and who authorized the offer.

(6) A health insurance company shall establish internal controls to ensure its compliance with its group rating and underwriting standards, and with the regulatory standards established by this Bulletin.

(7) If necessary, a company shall amend and re-file its rating formulas, rate manuals, or other means of applying its group rating and underwriting standards to comply with the regulatory standards set forth in this Bulletin.

Dated at Cranston, Rhode Island this ___ day of October, 2012.

Christopher F. Koller, Commissioner